

REMARKS

Applicant intends this response to be a complete response to the Examiner's **30 January 2009** Non-Final Office Action. Applicant has labeled the paragraphs in his response to correspond to the paragraph labeling in the Office Action for the convenience of the Examiner.

Preliminary Remarks – Commercial Success

Applicants have taken the subject matter of this invention and have commercialized the subject matter in a product known as DataArc and PocketRC. These products have met with tremendous commercial success and the system is one if not the most used tracking system for medical schools in the country. Applicants provided this evidence in the parent application and hereby reassert it here.

DETAILED ACTION

Status of Claims

The Examiner states as follows:

1. This action is in reply to the application filed on 2 April, 2004
2. Claims 1 - 14 are currently pending and have been examined.

Applicants acknowledge the Examiner's statements.

Information Disclosure Statement

The Examiner states as follows:

3. The Information Disclosure Statement filed on 2 April, 2004 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Applicants acknowledge the Examiner's statements.

Priority Claims to Earlier Filed Application

The Examiner contends as follows:

4. Applicant has claimed priority to provisional application 60/169175 filed 6 December, 1999. However, the present application must be an application for a patent for an invention which is also disclosed in the prior application (the provisional application). The disclosure of the invention in the provisional application and in the present application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).
5. The disclosure of the provisional application, Application No. 60/169175 fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. In Claim 1, the survey subsystem, student subsystem, clinician subsystem, staff subsystem and faculty subsystem are not supported. Claims 2, 3, 4, 5, 6 and 14 are also not supported. As a result the priority date of 6 December, 1999 is not granted for these claims and claim limitations.

Applicants disagree and point out support in the provisional of each claim elements as

follows:

Claim	Element	Page
1.	a GUI subsystem for interacting with a user including input screens having data input fields, selection fields and activation buttons and output screens including data output fields;	Pages 1-3 Throughout Attachment I
1.	a database subsystem for storing, manipulating and polling data including database fields corresponding to the input data field and output data field of the GUI screens; (Page 1 and 2)	Pages 1-3 Throughout Attachment I
1.	a logon subsystem including user identification routines to establish user identity and user system access status; (page 1 and 2 – see appendix at page 9)	Pages 1-3 Throughout Attachment I
1.	a survey subsystem including a plurality of surveys; (pages 60-	Pages 1-3 Attachment I - pp. 60-85
1.	a student subsystem including a time clock function, a daily log function, a clinical competencies function and a personal data function;	Pages 1-3 Attachment I - pp. 1-59
1.	a clinician subsystem including a personal daily log function, a clinical competencies function and a personal data function;	Pages 1-3 Attachment I - pp. 1-59
1.	a staff subsystem including a personal data function; and	Pages 1-3 Attachment I - pp. 1-59
1.	a faculty subsystem including a personnel data function, time clock function, a daily log function, a clinical competencies function, a summaries function and a program surveys function.	Pages 1-3 Attachment I - pp. 1-59
2.	The system of claim 1, where in the survey subsystem comprises an employee survey, a graduate survey, a student survey and a program personnel survey.	Pages 1-3 Attachment I - pp. 60-85
3.	The system of claim 1, where in the student time clock function comprises a time in clock function, a time out clock function, a view time clock records function and a generate time clock summary function, where the time in and time out functions create a unique time stamp for time in and time out and an elapsed time tied to a particular clinician and hospital or associated with a given medical protocol, procedure or rotation.	Attachment I - pp. 6, 18, and 86

4.	The system of claim 1, where in the student daily log and clinical competencies function comprise a view records function, a search records function, an add record function and summary function.	Attachment I - pp. 3, 10, 11, 14, 18-26
5.	The system of claim 1, where in the staff personal data function comprise a view records function, a search records function, an add record function, modify record function, and a delete record function.	Attachment I - pp.
6.	The system of claim 1, where in the staff and clinician daily log functions and clinical competencies functions comprise a validate student records function.	Attachment I - pp. 27-42
7.	The system of claim 1, wherein the server is a dedicated server	Page 2, ll. 26-29
8.	The system of claim 1, wherein the network is the internet and the system is web-based via the server	Page 2, last paragraph and AARC Article in Attachment
9.	Method	See support of system elements and Original provisional claim Attachment I - pp. 56-59
10.	The method of claim 9, further comprising the steps of: submitting the protocol data to the database after review by a supervisor and polling the entered data.	Original provisional claim Attachment I - pp. 56-59
11.	The method of claim 9, wherein the server is a dedicated a server connected to the network.	Page 2, ll. 26-29
12.	The method of claim 9, wherein the network is the internet and the system is web-based.	Page 2, last paragraph and AARC Article in Attachment

13.	Method	See support for system elements and Original provisional claim Attachment I - pp. 56-59
14.	The method of claim 13, further comprising the steps of:	Original provisional claim
	retrieving medical staff data for each medical staff from a systems of claims 1; and	Original provisional claim Attachment I - pp. 56-59
	determining an institution or department accreditation score therefrom.	Original provisional claim Attachment I - pp. 56-59

Drawings

The Examiner states as follows:

6. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because screen images depicted by Figures 13A-C; 14A,B,D,E; 15C; 16A-G; and 17A-H are not clear enough to read. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Applicants thanks the Examiner for his kind suggestion. Applicants are providing a set of formal drawings for the Examiner's consideration. These drawings have maintained all but the Windows operating system header and footer, while maintaining the integrity of the disclosure within the active windows.

Specification

The Examiner states as follows:

7. The disclosure is objected to because of the following informalities: The disclosure contains the following terms: "supervisor" "student"; "clinician"; "medical staff"; "staff"; "faculty"; "supervisor"; "program directors"; "graduates"; "employer" and "instructor", however, the claims only refer to "student"; "clinician"; "staff" and "faculty". Examiner cannot determine the metes and bounds of the

invention. For purposes of this examination, Examiner assumes that "clinician"; "instructor"; and "supervisor" have the same meaning (see specification page 8 line 16 - 17) and that "medical staff" and "staff" have the same meaning. Appropriate correction is required.

Applicants have made some amended to the specification to address some of these issues. The terms "employer" and "employers" are terms will known to all in any art. Because this is designed of medical students in medical schools for accreditation. Often the student are employees of different employers within the school especially when the school is associated with a hospital and other independent entities or employers. Applicants believe that the context makes it clear in each case that "employee" or "employees" were meant instead. For all other terms, Applicants adopt the terms as they are understood by an ordinary artisan and based on the definitions used at UTMB or other similar facilities.

Claim Rejections - 35 USC § 101

The Examiner states as follows:

9. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to a system, but no structure is claimed as is required by statutory systems, because the subsystems are broadly interpreted as software, not hardware. Therefore the claims could constitute computer programs representing computer listings per se. Such descriptions or expressions of the programs are not physical "things". They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.]

Applicants have amended the claims to recite a server having encoded thereon the claimed system and subsystem of executable routines. Support for a server based system can be found in the first paragraph of the Summary of the Invention on Page 2 of the original specification. Routines, as a description of computer software functions are disclosed throughout the entire application. See, *e.g.*, Page 8, 10, 12, 21, some of the original claims and the abstract. Because the claims now read on statutory subject matter, *i.e.*, a server, Applicants respectfully request removal of this 101 rejection.

The Examiner states as follows:

10. Claims 9 - 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The steps recited do not qualify as a statutory process. In order for a method to be considered a "process" under § 101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under § 101 and is non-statutory subject matter. Although the steps are performed using a computer, the computer is a field of use limitation because

the steps are human actions that do not require (i.e. are not tied to) the computer.

Applicants have amended the claims to include the step of providing a server having encoded thereon the claimed system and subsystem of executable routines of claim 1. Support can for the amendments are as set forth above. Because the claims now includes statutory subject matter upon which the method is implemented, *i.e.*, a server, Applicants respectfully request removal of this 101 rejection.

Claim Rejections - 35 USC § 112

12. **Claim 6** stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states as follows:

Applicant claims a *"staff and clinician daily log functions and clinical competencies functions comprise a validate student records function"*. There is no antecedent basis in the claims for a *"staff daily log function and clinical competencies function"*.

Applicants have amended claim 6 and other claims to make the references more clear and consistent. None of these amendments narrow the scope of the claim, but are merely amendments to make term identification easier. Applicants respectfully request withdrawal of this rejection.

13. **Claims 1 - 8** stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states as follows:

13. Claims 1 - 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. A proper "system" contains physical structure. However, the "system" claimed in claims 1-8 recite no physical structure, only software. Therefore, the structure of claims 1-8 is unclear.

Applicants have amended claim 1 to recite a server having encoded thereon a system of this invention. Because servers are statutory subject matter and the system includes routines that record and store data entered during the performance of tasks and permit modification, editing, evaluation, commenting and scoring, the system is transformative meeting the statutory criteria for a software program implemented on a computer such as a server, connected to an intranet or internet. These amendments do not narrow the claims, but simply bring the claims into conformity with statutory subject matter requirements of the Patent laws. Applicants, therefore, respectfully request

withdrawal of this rejection.

14. Examiner's Note:

The Examiner states as follows:

The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Applicants acknowledge the Examiner's statement and will attempt to address all Examiner arguments. However, Applicants must remind the Examiner that rejections must be articulated in a definite manner so that Applicants can respond accordingly. Applicants are not in a position to determine anything more than the exact arguments made by the Examiner.

Claim Rejections - 35 USC § 102

16. Claims 9 and 11 stand rejected under 35 U.S.C. 102(b) as being anticipated over Recigno (US 5616899 A).

The Examiner states as follows:

CLAIM 9

Recigno as shown discloses the following limitations:

- *logging onto a system*; (see at least Recigno column 20 line 29 - 41);
- *selecting a time in function which generates a unique time in stamp*; (see at least Recigno column 20 line 60 - 62);
- *selecting a time out function after completion of a medical protocol or procedure which generates a unique time out stamp*; (see at least Recigno column 10 line 9 - 19);
- *selecting a clinician and an area identifying the instructor and the protocol or procedure*; (see at least Recigno column 10 line 9 - 19);
- *entering data associated with the protocol or procedure in appropriate fields in a GUI screen associated with the protocol or procedure*, (see at least Recigno column 5 line 57 - 67; column 7 line 38 - 45 and column 10 line 9 - 19);
- *updating the time entry record*; (see at least Recigno column 20 line 37 - 43).

Applicants disagree with the Examiner's characterization of Recigno. Recigno does not include a selecting a "time in function". In fact, Recigno has not way to independently select a "time in function". While it is true that Recigno does generate a date and time (assumed to be unique as Recigno specifically states that the date and time stamps are unique), Recigno does not permit the time and date function to be separately activated. It is activated whenever anyone enters his/she employee identification, via scanner or entering by keys into a scanner **253**. As Applicants understand, they are required to read the Recigno patent broadly, but even if they were to assume that the scanner is the same as a terminal attached to an internet or intranet, Recigno does not

provide for selecting a "time in function." Such an operation is just not consistent with the teaching of Recigno.

Applicants also disagree with the Examiner's characterization of Recigno on a "time out function". While it is true that the scanner 253 can keep track of elapsed time, it is also true that only one employee can use a scanner at a time. Thus, the first employee must complete his/her task or end the scan session prior to another employee using the scanner. This arrangement would be wholly inconsistent with a teaching facility as each student would be impeding every other student. School is hard enough without the prospects that other students can simply log on to all existing entry points insuring that no other students could do anything. While such may work ok for a dental service facility, it will not work for a teaching hospital or for a teaching dental school for that matter.

Applicants understand the Recigno supports area identification and data entry, but Recigno does this by bar codes that tell the scanner where we are. This is not student or instructor driven, but bar code driven.

Recigno simply does not support independent "time in" and "time out" functions that are not tied specifically to a scanning event. The "time in" and "time out" functions cannot be selected separately as required by claim 9. Because Recigno does not disclose separate "time in" and "time out" function that can be activated and deactivated by any number to students simultaneously from any number of entry devices, Recigno cannot anticipate claim 9. Applicants, therefore, respectfully request withdrawal of this section 102(b) rejection.

The Examiner states as follows:

CLAIM 11

Recigno as shown discloses the limitations shown above. Recigno also discloses the following limitations:

- *the system resides on a dedicated a server connected to the network;* (see at least Recigno column 5 line 1 - 29).

Applicants reassert their arguments relating to Recigno here and note that Recigno fails to anticipate because the server include functionality not disclose in Recigno, namely "time in" and "time out" functions that can be invoked separately not associated with a scanning event. Applicants, therefore, respectfully request withdrawal of this section 102(b) rejection.

Claim Rejections - 35 USC § 103

19. **Claims 1 - 8** stand rejected under 35 U.S.C. 103(a) as being unpatentable over Recigno (US 5616899 A) and in further view of Kersting "Microcomputer Management Information System for

a University Allied Health Clinical Training Program" December, 1983; and in further view of Hamlin et al. (US 6477504 B1).

The Examiner states as follows:

CLAIMS 1 and 3 - 8

Recigno as shown discloses the following limitations:

- *a GUI subsystem for interacting with a user including input screen having data input fields, selection fields and activation buttons and output screens including data output fields; (see at least Recigno column 5 line 57 - 67);*
- *a database subsystem for storing, manipulating and polling data including database fields corresponding to the input data field and output data field of the GUI screens; (see at least Recigno column 6 line 24 - 33);*
- *a logon subsystem including user identification routines to establish user identity and user system access status; (see at least Recigno column 20 line 29 - 41);*
- *time in and time out routines for time stamping a user's activities associated with a given medical protocol, procedure or rotation; (see at least Recigno column 2 line 2 - 22);*
- *a time in clock function (i.e.: start time); (see at least Recigno column 10 line 9 - 19);*
- *a timeout clock function (i.e.: finish time); (see at least Recigno column 10 line 9 - 19);*
- *a view time clock records function; (see at least Recigno column 10 line 36 - 40);*
- *a generate time clock summary function; (see at least Recigno column 10 line 36 - 40);*
- *a unique time stamp for time in and time out; (see at least Recigno column 20 line 60 - 62);*
- *an elapsed time tied to a particular clinician and hospital area; (see at least Recigno column 2 line 2-6);*
- *the system resides on a dedicated a server connected to the network; (see at least Recigno column 5 line 1 - 29);*
- *a view records function (i.e. retrieve); (see at least Recigno column 6 line 25 - 33);*
- *a search records function (i.e. retrieve); (see at least Recigno column 6 line 25 - 36); Examiner notes that SQL stands for Structured Query Language*
- *an add record function (i.e. add); (see at least Recigno column 6 line 25 - 33);*
- *summary function; (i.e. analytical functions); (see at least Recigno column 7 line 66 through column 8 line 3);*
- *modify record function (i.e. edit); (see at least Recigno column 6 line 25 - 33);*
- *a delete record function (i.e. edit); (see at least Recigno column 6 line 25 - 33). Examiner notes that SQL stands for Structured Query Language which includes a delete function. Recigno as shown discloses the limitations shown above. Recigno does not disclose the following limitations, however Kersting does:*
- *a student subsystem including a time clock function, a daily log function, a clinical competencies function and a personal data function; (see at least Kersting page 3, 4, 6, 8 and 30). Examiner notes that the time clock function has the same meaning as "clinical clock hours"; that daily log function has the same meaning as "document the academic and clinical experiences of students; and that a clinical competencies function has the same meaning as "compliance with professional training standards".*

Examiner also notes that *a personal data function* is contained in the Kersting disclosure since tracking a students clinical experience would require that student personal information be included in the database.

- *a clinician subsystem including a personal daily log function, a clinical competencies function and a personal data function*; (see at least Kersting page 4 and 28). Examiner notes that Kersting discloses a system that provides for the generation of data for various management parameters including supervision hours and that data for clinicians is shared with other sites. Therefore, the Kersting disclosure has a clinician personal daily log function, clinical competencies function and personal data functions as parts of the system.
- *a staff subsystem including a personal data function*; (see at least Kersting page 29);
- *a faculty subsystem including a personnel data function, time clock function, a daily log function, a clinical competencies function, a summaries function*; (see at least Kersting page 4 and 29). Examiner notes that Kersting discloses a system that provides for the generation of data for various management parameters including academic supervision credit and faculty supervisory loads. Therefore, the Kersting disclosure has a personnel data function, time clock function, a daily log function, and a clinical competencies function as parts of the system.
- *a validate student records function*; (see at least Kersting page 34).

Examiner notes that Kersting also discloses a "database" (page 29); the "storage of clinical clock hours" (page 8); that the "system interfaces with other sites" (page 4); that the "system utilizes various computer networks" (page 20). Kersting also cites the "benefits to be derived from decentralized, distributed processing" (page 21).

It would be obvious to one of ordinary skill in the art at the time of the invention to combine the case management system of Recigno with the clinical training program of Kersting because tracking and review of a students clinical activities is necessary in order to grant certification and licensure to the student.

The combination of Recigno/Kersting discloses the limitations shown above. Recigno/Kersting does not disclose the following limitation, however Hamlin does:

- *a survey subsystem including a plurality of surveys*; (see at least Hamlin column 2 line 51 - 64);
- *the network is the internet and the system is web-based*; (see at least Hamlin column 5 line 32 - 36).

It would be obvious to one of ordinary skill in the art at the time of the invention to combine the case management system of Recigno/Kersting with the web-based survey system of Hamlin because the use of surveys to poll members of an organization at a variety of levels and functions allows a decision maker to understand the behavior, opinions and attitudes of the surveyed population and make better decisions.

Applicants reassert their arguments relating to Recigno here and note that Recigno fails to anticipate because the server include functionality not disclose in Recigno, namely "time in" and "time out" functions that can be invoked separately not associated with a scanning event. Without these separate "time in" and "time out" function, the present system could not operate to its intended purpose. Once logged into the system, a student, instructor, reviewer, or evaluator have access to many different function, not all requiring a "time in" or "time out" function. However, Recigno does not include separate "time in" and "time out" functions. Each time a scanner scans a bar code, a time stamp is generated. A Recigno user cannot generate a time without the scanner. A Recigno user can edit a time, but a Recigno user cannot perform a function without a time stamp. The inability

to separately invoke "time in" and "time out" functions on a fully arbitrary basis by as many users as want so that the system can track many user simultaneously without having students wait for other to log out, is needed for students. Recigno does not permit such independent invocation. Recigno does not disclose including "time in" and "time out" functions that can be separately selected by any number of users.

The addition of Kersting and Hamlin do nothing to address the deficiencies of Recigno. In fact, it is clear from Kersting that a time clock function as used herein was not at all disclosed or even contemplated by Kersting. See Kersting at page 15 where Kersting lays out its information management system. Because Recigno does not disclose, even suggest or even direct an ordinary artisan toward independent "time in" and "time out" functions, the combination with Kersting and Hamlin cannot address these functions. Thus, the combination of Recigno, Kersting and Hamlin cannot render the present claims obvious. Applicants, therefore, respectfully request withdrawal of this section 102(b) rejection.

The Examiner states as follows:

CLAIM 2

The combination of Recigno/Kersting/Hamlin discloses the limitations shown above. The combination of Recigno/Kersting/Hamlin does not specifically disclose the following limitation *per se*:

- *an employer survey, a graduate survey, a student survey and a program personnel survey per se.*

However, Hamlin does disclose that "a client may define their own target group" for the survey. (see at least Hamlin column 9 line 49 - 53). Therefore, It would also be obvious to one of ordinary skill in the art to at the time of the invention to combine the case management system of Recigno/Kersting with the survey system of Hamlin because the use of surveys to poll members of an organization at a variety of levels and functions allows a decision maker to understand the behavior, opinions and attitudes of the surveyed population and make better decisions.

Applicants reassert their arguments relating to Recigno here and note that Recigno fails to anticipate because the server include functionality not disclose in Recigno, namely "time in" and "time out" functions that can be invoked separately not associated with a scanning event. Without these separate "time in" and "time out" function, the present system could not operate to its intended purpose. Once logged into the system, a student, instructor, reviewer, or evaluator have access to many different function, not all requiring a "time in" or "time out" function. However, Recigno does not include separate "time in" and "time out" functions. Each time a scanner scans a bar code, a time stamp is generated. A Recigno user cannot generate a time without the scanner. A Recigno user can edit a time, but a Recigno user cannot perform a function without a time stamp. The inability to separately invoke "time in" and "time out" functions on a fully arbitrary basis by as many users

as want so that the system can track many user simultaneously without having students wait for other to log out, is needed for students. Recigno does not permit such independent invocation. Recigno does not disclose including "time in" and "time out" functions that can be separately selected by any number of users.

The addition of Kersting and Hamlin do nothing to address the deficiencies of Recigno. Because Recigno does not disclose, even suggest or even direct an ordinary artisan toward independent "time in" and "time out" functions, the combination with Kersting and Hamlin cannot address these functions. Thus, the combination of Recigno, Kersting and Hamlin cannot render the present claims obvious. Applicants, therefore, respectfully request withdrawal of this section 102(b) rejection.

20. **Claim 10** stands rejected under 35 U.S.C. 103(a) as being obvious over Recigno (US 5616899 A) and in further view of Official Notice.

The Examiner states as follows:

CLAIM 10

Recigno as shown discloses the limitations shown above. Recigno also discloses the following limitations: *submitting the protocol data to the database and polling the entered data*; (see at least Recigno column 6 line 24 - 33 and column 7 line 66 to column 8 line 5). Recigno as shown does not specifically disclose that the data is *reviewed by a supervisor* per se. However, Recigno does disclose supervisory and management function (see Recigno column 12 line 32 - 35; column 15 line 41 - 43 and column 7 line 66 thru column 8 line 5). Additionally, Examiner takes Official Notice that the normal function of a supervisor or manager is to review the work of subordinates. Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to modify the case management system of Recigno with the Official Notice to provide that supervisors review the work of subordinates because reviewing a subordinates work will reduce errors and increase efficiency of the department.

Applicants reassert their arguments relating to Recigno here and note that Recigno fails to anticipate because the server include functionality not disclose in Recigno, namely "time in" and "time out" functions that can be invoked separately not associated with a scanning event. Without these separate "time in" and "time out" function, the present system could not operate to its intended purpose. Once logged into the system, a student, instructor, reviewer, or evaluator have access to many different function, not all requiring a "time in" or "time out" function. However, Recigno does not include separate "time in" and "time out" functions. Each time a scanner scans a bar code, a time stamp is generated. A Recigno user cannot generate a time without the scanner. A Recigno user can edit a time, but a Recigno user cannot perform a function without a time stamp. The inability to separately invoke "time in" and "time out" functions on a fully arbitrary basis by as many users as want so that the system can track many user simultaneously without having students wait for

other to log out, is needed for students. Recigno does not permit such independent invocation. Recigno does not disclose including "time in" and "time out" functions that can be separately selected by any number of users.

The addition of the Examiner's Official Notice does nothing to address the deficiencies of Recigno. Because Recigno does not disclose, even suggest or even direct an ordinary artisan toward independent "time in" and "time out" functions, the combination with Kersting and Hamlin cannot address these functions. Thus, the combination of Recigno and the Examiner's Official Notice cannot render the present claims obvious. Applicants, therefore, respectfully request withdrawal of this section 102(b) rejection.

21. **Claim 12** stands rejected under 35 U.S.C. 103(a) as being unpatentable over Recigno (US 5616899 A) and in further view of Hamlin et al. (US 6477504 B1).

The Examiner states as follows:

CLAIM 12

Recigno as shown discloses the limitations shown in the U.S.C. 102 rejection above. Recigno does not disclose the following limitations, however Hamlin does:

- *the network is the internet and the system is web- based;* (see at least Hamlin column 5 line 32 - 36).

It would be obvious to one of ordinary skill in the art at the time of the invention to combine the case management system of Recigno with the Internet connection of Hamlin because the use of the internet to connect computers allows for a distributed computer system to communicate.

Applicants reassert their arguments relating to Recigno here and note that Recigno fails to anticipate because the server include functionality not disclose in Recigno, namely "time in" and "time out" functions that can be invoked separately not associated with a scanning event. Without these separate "time in" and "time out" function, the present system could not operate to its intended purpose. Once logged into the system, a student, instructor, reviewer, or evaluator have access to many different function, not all requiring a "time in" or "time out" function. However, Recigno does not include separate "time in" and "time out" functions. Each time a scanner scans a bar code, a time stamp is generated. A Recigno user cannot generate a time without the scanner. A Recigno user can edit a time, but a Recigno user cannot perform a function without a time stamp. The inability to separately invoke "time in" and "time out" functions on a fully arbitrary basis by as many users as want so that the system can track many user simultaneously without having students wait for other to log out, is needed for students. Recigno does not permit such independent invocation. Recigno does not disclose including "time in" and "time out" functions that can be separately selected by any number of users.

The addition of Hamlin do nothing to address the deficiencies of Recigno. Because Recigno does not disclose, even suggest or even direct an ordinary artisan toward independent "time in" and "time out" functions, the combination with Hamlin cannot address these functions. Thus, the combination of Recigno and Hamlin cannot render the present claims obvious. Applicants, therefore, respectfully request withdrawal of this section 102(b) rejection.

22. **Claim 13** stands rejected under 35 U.S.C. 103(a) as being unpatentable over Kersting "Microcomputer Management Information System for a University Allied Health Clinical Training Program" December, 1983; and in further view of the Liaison Committee on Medical Education (LCME) "Overview" 22 July 1997.

The Examiner states as follows:

CLAIM 13

Kersting as shown discloses the following limitations:

- *retrieving medical student data for each medical student; (see at least Kersting page 4).*
Kersting does not specifically disclose "*determining an accreditation score*", however Kersting does disclose that student records must be used to "document compliance with professional training standards." (see at least Kersting page 4 and 30). Examiner notes that the documented compliance with professional training standards for students in a clinical training program is a requirement for the accreditation of the program. (see the LCME Overview) Therefore it would be obvious to one of ordinary skill in the arts to modify the clinical training program of Kersting to provide that the program would submit reports to the LCME for purposes of accreditation because LCME accreditation is a requirement for the licensure of graduates.

Applicants reassert their arguments relating to Kersting here and note that Kersting fails to anticipate because the server include functionality not disclose in Kersting , namely "time in" and "time out" functions that can be invoked separately not associated with a scanning event. Without these separate "time in" and "time out" function, the present system could not operate to its intended purpose. Once logged into the system, a student, instructor, reviewer, or evaluator have access to many different function, not all requiring a "time in" or "time out" function. However, Kersting does not include separate "time in" and "time out" functions. Each time a scanner scans a bar code, a time stamp is generated. A Kersting user cannot generate a time without the scanner. A Kersting user can edit a time, but a Kersting user cannot perform a function without a time stamp. The inability to separately invoke "time in" and "time out" functions on a fully arbitrary basis by as many users as want so that the system can track many user simultaneously without having students wait for other to log out, is needed for students. Kersting does not permit such independent invocation. Kersting does not disclose including "time in" and "time out" functions that can be separately selected by any number of users.

The addition of the Liaison articles does nothing to address the deficiencies of Kersting. Because Kersting does not disclose, even suggest or even direct an ordinary artisan toward independent "time in" and "time out" functions, the combination with Kersting and Hamlin cannot address these functions. Thus, the combination of Kersting and the Liaison article cannot render the present claims obvious. Applicants, therefore, respectfully request withdrawal of this section 102(b) rejection.

23. **Claim 14** stands rejected under 35 U.S.C. 103(a) as being unpatentable over Kersting "Microcomputer Management Information System for a University Allied Health Clinical Training Program" December, 1983; and in further view of the Liaison Committee on Medical Education (LCME) "Overview" 22 July 1997 and in further view of "A Journey Through the History of The Joint Commission (JCOAH), 1987.

The Examiner states as follows:

CLAIM 14

Kersting as shown discloses the following limitations:

- *retrieving medical staff data for each medical staff* (see at least Kersting page 6 and 30).
Kersting does not specifically disclose *"determining an institution or department accreditation score"*; however Kersting does disclose that reports generated from the data document service delivery and clinician experience. (see at least Kersting page 5 and 30). Examiner notes that the documentation of organizational performance is a requirement for the accreditation of the institution. (see the JCOAH History, 1987) Therefore it would be obvious to one of ordinary skill in the arts to modify the clinical training program of Kersting to provide that the program would submit reports to the JCOAH for purposes of institutional accreditation because JCOAH accreditation is mandated by the Social Security Act of 1972.

Applicants reassert their arguments relating to Kersting here and note that Kersting fails to anticipate because the server include functionality not disclose in Kersting, namely "time in" and "time out" functions that can be invoked separately not associated with a scanning event. Without these separate "time in" and "time out" function, the present system could not operate to its intended purpose. Once logged into the system, a student, instructor, reviewer, or evaluator have access to many different function, not all requiring a "time in" or "time out" function. However, Kersting does not include separate "time in" and "time out" functions. Each time a scanner scans a bar code, a time stamp is generated. A Kersting user cannot generate a time without the scanner. A Kersting user can edit a time, but a Kersting user cannot perform a function without a time stamp. The inability to separately invoke "time in" and "time out" functions on a fully arbitrary basis by as many users as want so that the system can track many user simultaneously without having students wait for other to log out, is needed for students. Kersting does not permit such independent invocation.

Kersting does not disclose including "time in" and "time out" functions that can be separately selected by any number of users.

The addition of the two articles to Kersting does nothing to address the deficiencies of Kersting . Because Kersting does not disclose, even suggest or even direct an ordinary artisan toward independent "time in" and "time out" functions, the combination with these two articles and Hamlin cannot address these functions. Thus, the combination of Kersting and these two articles cannot render the present claims obvious. Applicants, therefore, respectfully request withdrawal of this section 102(b) rejection.

Having fully responded to the Examiner's Non-Final Office Action, Applicant respectfully urges that this application be passed onto allowance.

If it would be of assistance in resolving any issues in this application, the Examiner is kindly invited to contact applicant's attorney Robert W. Strozier at 713.977.7000

The Commissioner is authorized to charge or credit Deposit Account 501518 for any additional fees or overpayments.

Respectfully submitted,

Date: **30 June 2009**

/Robert W. Strozier/

Robert W. Strozier, Reg. No. 34,024